

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 34 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

CHANDRAKANT M SHAH

Appearance:

MR MANISH R BHATT for Petitioner

MR Manish Shah for Mr. JP SHAH for the Respondent.

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 06/05/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question for the opinion of this Court under section 256(1) of the Income-tax Act, 1961.

"Whether, on the facts and in the circumstances of the case the Tribunal was right in law in holding that the deduction of 40% claimed by the assessee cannot be disallowed ?"

2. Similar question had come up for consideration before this Court in ITR No. 54 of 1993 and other cognate matters. For the reasons given in our judgment dated 27.4.1998 in the said group of matters, we hold that the Tribunal was right in holding that the deduction of the incentive bonus claimed by the assessee from the LIC cannot be disallowed, but only to the extent of reimbursement of expenditure actually incurred upto the maximum limit of 30% of the incentive bonus earned by the assessee. The question referred is accordingly answered in the affirmative against the Revenue and in favour of the assessee. The Reference stands disposed of accordingly with no order as to costs.

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